MISCELLANY.

Who Should Make the Laws—Laymen or Lawyers?—Somebody is out with a war club for the legal profession. His name is Solward, according to the press reports, and he lives in San Antonio, Texas. His indictments of the profession is directed mainly at the alleged incapacity of lawyers to make laws.

Are lawyers good law makers? Probably not in most cases. And yet the most conspicuous law makers of all history were lawyers.

Lawyers are of two types, the jurist and the practitioner. The former usually makes a good judge and a good legislator. The trial lawyer, on the other hand, is not, by training, adapted to such work. He is accustomed to taking sides; he sees only one aspect of a case at a time and in drawing a statute to meet a certain evil will proceed so intensely to affect this one purpose that while the particular evil is fully met, another is often created.

Laymen frequently make good legislators, provided they are men of broad education and have the deliberative mind that refuses to enthuse over one aspect or result of proposed legislation until it has thoroughly considered its effect from other standpoints.

Legislation is a science and like other sciences requires trained men to practice it. In England the laymen predominate in Parliament for the reason that the electorate return men of letters and liberal education, fitted by their wide culture to take a comprehensive view of public questions coming before them.

The trouble in this country is that the lawyer is apparently the only man of education and culture who will forsake the pursuit of gold long enough to serve his state or his county in a matter which brings so little recompense in things material.

Instead of attacking the profession for monopolizing legislative offices, we suggest to our lay critic that his services pro bono publico would be better directed in arousing a more sacrificing public spirit on the part of laymen of education and culture.

Let constructive intellects like Morgan, Hill, Edison, Ford and others so prominent in the business world be given as freely to the public service as have the great intellects of Madison, Webster, Clay, Root and other great lawyers, who willingly offered up on the altar of public service so much of their valuable time and experience. Then will our laws more accurately and more broadly meet the public situations and exigencies that cry for effective solution.—Central Law Journal.

Confiscation of Bank Balances in Time of War.—It is reported that the German Government have already confiscated money lying to the credit of British customers in Berlin banks. There are precedents for this, but since the end of the Napoleonic wars the only instance

is supplied by an Act of the Congress of the Confederate States during the American Civil War. Hall, an authoritative text writer on international law, sums up the present position as follows: "For the present it cannot be said that a belligerent does a distinctly illegal act in confiscating such personal property of his enemies existing within his jurisdiction as is not secured upon the public faith, but the absence of any instance of confiscation in the more recent European wars, no less than the common interest of all nations and present feeling, warrant a confident hope that the dying right will never again be put in force, and that it will soon be wholly extinguished by disuse." ["Personal property secured on the public faith" means money lent on the security of the State itself; it is protected from confiscation by established custom.] If Germany has revived the right, restitution can only be secured in the articles of peace, which, on the conclusion of wars in which it has been exercised, have usually provided for the reversal of confiscations.—The Policy-Holder, August 26, 1914, Manchester.

Repartee in Court Room.—Defendant's counsel, during the trial of a prosecution for homicide, expressed a desire to make a statement in argument of a matter then being represented. The trial court said: "I am going to rule in your favor if you have sense enough to keep quiet." Counsel replied: "I desire also, if the court is going to give his reasons, if the court will give his reason for telling me I have no sense." The Court responded: "Perhaps it would be too long to give the reasons. Proceed." The District Court of Appeals of California, in People *v.* Cramley, 138 Pacific Reporter, 123, held that the remarks of the trial judge did not prejudice the jury against accused, saying: "Counsel states that the tone in which the remarks were uttered cannot be represented in the record. Neither is the attitude and demeanor which counsel may have assumed toward the court so represented. But there is nothing in the comment of the court, drastic as it may have been, that can be said to have prejudiced defendant's case in the eyes of the jury. The ruling of the court made at the time the words excepted to were uttered was in defendant's favor, and the most that the jury could have reasonably inferred would have been that, in the opinion of the judge, the defendant's counsel was deficient in intelligence or understanding. It cannot be assumed that this intimation prejudiced the jury against defendant; for it could reasonably have had the contrary effect."